

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

WASH GREEN

vs.

BRIAN DAVID TILLMAN and MARTEN  
TRANSPORT, Ltd.

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Civil Action No.

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. 1332, 1441 and 1446, Defendant Marten Transport, Ltd. (“Defendant”) files this Notice of Removal from the 193<sup>rd</sup> Judicial District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division, and respectfully states the following:

**State Court Action**

1. On May 29, 2015, Plaintiff, Wash Green (“Plaintiff”) initiated this action by filing Plaintiff’s Original Petition, (the “Petition”), Cause No. DC-15-06219, in the 193<sup>rd</sup> Judicial District Court of Dallas County, Texas (the “State Court Action”) against Brian David Tillman and Marten Transport, Ltd. (“Defendants”). Plaintiff asserts claims of negligence against the Defendants. Plaintiff did not make a demand for jury trial in the state court action.

**Timeliness of Removal**

2. Defendant, Marten Transport, Ltd was served with Plaintiff’s Original Petition on June 11, 2015. To date, Defendant, Brian David Tillman has not been served with the lawsuit. Defendant files this Notice of Removal within thirty days after receipt of service of the Plaintiff’s Original Petition. Thus, pursuant to 28 U.S.C. 1446(b), Defendant’s removal of this action is timely.

### **Grounds for Removal**

3. The State Court Action may be removed to this Court, pursuant to 28 U.S.C. 1441(a), because this court has original jurisdiction of the claims and parties in the State Court Action pursuant to 28 U.S.C. 1332. The United States District Court for the Northern District of Texas, Dallas Division, is the proper venue for this action under 28 U.S.C. 1441(a) because it presides over the district and division within which the State Court Action was filed (Dallas County).

4. Plaintiff is now, and was at the time the action commenced, a resident and citizen of the State of Texas. *See* Plaintiff's Original Petition on file herein.

5. Defendant Marten Transport, Ltd, is now, and was at the time the action was commenced, a Delaware corporation with its principal place of business in Mondovi, Wisconsin. Thus, Defendant is a citizen of both Delaware and Wisconsin and complete diversity of citizenship exists between Plaintiff and Defendant.

6. The amount in controversy exceeds \$75,000, excluding interest, costs and attorney's fees. See Notice of Lien served on behalf of Cigna in the amount of One Hundred Eighty-Four Thousand Four Hundred Fifteen Dollars and 35/100 (\$184,015.35), attached hereto as Exhibit "A".

### **Required Documents**

7. The following documents are attached in accordance with LR81:

(a) A copy of the executed process in the case, attached hereto as Exhibit B;

(b) A copy of the docket sheet in the State Court Action, attached hereto as Exhibit C;

(c) An index of all documents filed in the State Court Action, attached hereto as Exhibit D;

- (d) Certificate of Interested Person attached hereto as Exhibit E;
- (e) True and correct copies of all documents filed in the stated court action,  
attached hereto as follows:

Exhibit B – Executed Process on Marten

Exhibit F – Plaintiff’s Original Petition

Exhibit G – Defendant Marten’s Original Answer

Exhibit H – Plaintiff’s Amended Petition

Exhibit I – Citation for David Brian Tillman

Exhibit J – Citation for Marten Transport, Ltd.

Exhibit K – Citation for Marten Transport, Ltd.

Exhibit L – Certificate for Service on Marten Transport, Ltd.

Exhibit M – Notice of Initial Dismissal Hearing

#### **Notice of Removal**

8. Pursuant to 28 U.S.C. 1446(d), written notice of the filing of this Notice of Removal to all adverse parties and a true and correct copy of this Notice of Removal will be filed with the Clerk of the 193<sup>rd</sup> Judicial District Court of Dallas County, Texas.

#### **Request for Relief**

Defendant requests the following relief:

- (a) That the Court make such orders, if any, and take such action, if any, as may be necessary in connection with the removal of the State Court Action to this Court; and
- (b) Such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

**RUSSELL & WRIGHT, PLLC**

By: /s/ Michael C. Wright  
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**ATTORNEY FOR DEFENDANT MARTEN  
TRANSPORT, LTD**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 7<sup>th</sup> day of July 2015, a true and correct copy of this pleading has been served on the following counsel of record pursuant to the electronic filing procedures in this district:

James E. Polk  
417 N. 12<sup>th</sup> Street  
Corsicana, Texas 75110

/s/ Michael C. Wright  
Michael C. Wright